




CLOSED CASE SUMMARY

ISSUED DATE: JULY 9, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0019

Allegations of Misconduct & Director's Findings

Named Employee #1

| Allegation(s): | | Director's Findings |
|----------------|--|-----------------------------------|
| # 1 | 8.200 - Using Force (1) Use of Force: When Authorized | Not Sustained - Lawful and Proper |
| # 2 | 8.400-POL-1 Use of Force Reporting and Investigation, 1. Officers Will Document in a Use-of-Force Report All Uses of Force Except De Minimis Force | Not Sustained - Unfounded |

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

During the Force Review Board's (FRB) analysis of this matter, OPA flagged that Named Employee #1 (NE#1) may have used unauthorized force and inadequately reported that use of force.

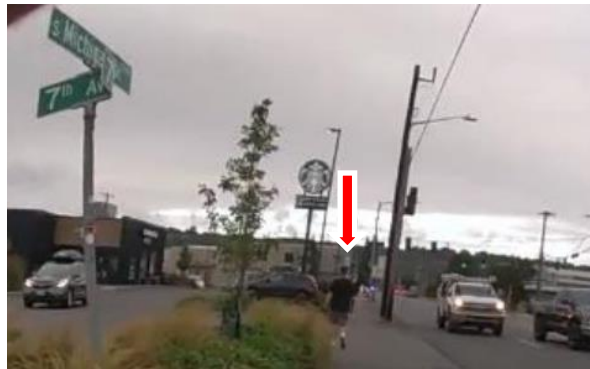
ADMINISTRATIVE NOTE:

On June 16, 2023, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On June 29, 2022, NE#1 responded as a backing officer to a motor vehicle collision. Fifteen officers total responded. The computer-aided dispatch (CAD) report indicated that the crash involved violence and a mental health crisis. Specifically, a CAD update stated that a male subject—Community Member #1 (CM#1)—armed with a knife was cutting himself. A 9-1-1 caller reportedly saw blood streaming CM#1's neck. Another caller reportedly saw CM#1 cutting his throat, causing the caller to crash into a building. CAD notes suggested that onlookers unsuccessfully tried disarming CM#1. A subsequent CAD update reported that CM#1 walked westbound in traffic while cutting his throat.

Body-worn videos showed that NE#1 and other officers discussed CM#1's description before arriving at the incident location. Upon arrival, suggesting CM#1, an officer asked, "Is that him?" Another officer responded, "Yeah, that's him." NE#1 addressed CM#1, "Hey, come here. Hey, come here, man. Put the knife down. Put the knife down! Hey, come here. Hey, put the knife down and come here, dude." CM#1 kept walking, ignoring police commands to stop.



NE#1 followed CM#1, yelling, “Hey, come here. Put the knife down and come here.” CM#1 was uncompliant. CM#1 picked up his pace and then ran into a Starbucks parking lot. NE#1 and other officers chased him. NE#1 continued, “Put the knife down. Hey, drop it now. Don't, don't do that. Stop. Don't do that. Stop.”



NE#1 yelled at Witness Employee #1 (WE#1), “Hey, tase him, dude.” WE#1 ran toward CM#1 and deployed his Taser, which was ineffective.



CM#1 ran across the parking lot, across a street, and along a sidewalk. While running, CM#1 tripped, fell, and dropped the knife.



NE#1 kicked the knife beyond CM#1's reach. CM#1 tried to stand as officers closed in.



NE#1 held CM#1 to the ground while ordering him to "Stop, dude! Stop!" CM#1 buried his arms under his body as officers tried to control his movements. Officers, including NE#1, ordered CM#1 to put his hands behind his back, but CM#1 tensed and pulled his arms away. NE#1 punched CM#1's right side.



CM#1 put his arms behind his back and was handcuffed. After CM#1 was handcuffed and placed in the recovery position, CM#1 continued to tense, flail, and pull away from the officers. NE#1 tried to apply gauze to CM#1's neck wound, but CM#1 kept pulling away. The Seattle Fire Department arrived and provided medical aid. NE#1 entered Gas Station #1, where CM#1 was taken down, and asked a worker for the footage. The worker agreed to email or deliver it to the police station on a USB drive if it was too large. Witness Employee #2 (WE#2) ordered NE#1 and other officers to write use-of-force statements. NE#1's stated:

"As I went hands-on with the subject, he was covered in blood and still actively resisting. The subject was not listening to commands of multiple Officers and had pulled his hands underneath his body, causing him to "turtle up." The subject was advised multiple times by multiple Officers to "stop, roll over and get on the ground." I advised the subject to "put his hands out." The subject tensed his body and continued to try to get up off the ground. I was on the right side of the subject, and he would not take his arm out from underneath him, and Officers were not able to pull it out. There were at least 5 Officers who were on top of the subject, all of which are built bigger than your average person, and the subject continued to physically resist and not obey commands. I delivered 1 closed fist strike to the subject's right side near his rib cage area, and we were able to gain control of both of the subjects [sic] arms and place him into handcuffs."

OPA attempted to interview CM#1, but its phone calls were not returned. OPA also emailed CM#1's possible attorney but did not get a response to confirm her representation.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.200 - Using Force (1) Use of Force: When Authorized

It was alleged that NE#1 used unauthorized force by punching CM#1's side.

Officers may use "objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective." SPD Policy 8.200(1). Whether force is reasonable depends "on the totality



of the circumstances” known to the officers at the time of the force and must be balanced against “the rights of the subject, in light of the circumstances surrounding the event.” SPD Policy 8.050. Reasonableness must consider that officers are often forced to make “split-second decisions” in tense, dynamic circumstances. *Id.* There are several factors to weigh when evaluating reasonableness. *See id.* Force is necessary where “no reasonably effective alternative to the use of force appeared to exist” and “the amount of force used was reasonable to effect the lawful purpose intended.” *Id.*

Here, NE#1 and other officers encountered CM#1, who posed significant risks to himself and others. In addition to the severe self-inflicted injuries, 9-1-1 callers reported that CM#1 walked into traffic while self-mutilating, causing at least one car crash. Before NE#1’s use of force, CM#1 ignored several commands and buried his arms under his body, leaving officers uncertain whether he still posed a threat. Even though NE#1 kicked the knife CM#1 carried away, officers did not know whether he had a concealed weapon. Officers also attempted Taser deployments, a less lethal force option. When other efforts failed, NE#1 delivered a single punch to CM#1’s side to gain compliance. Under the circumstances, NE#1’s use of force was not only effective, but it was also objectively reasonable, necessary, and proportional.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

Named Employee #1 - Allegation #2

8.400-POL-1 Use of Force Reporting and Investigation, 1. Officers Will Document in a Use-of-Force Report All Uses of Force Except De Minimis Force

It was alleged that NE#1 inadequately reported his use of force.

Here, after NE#1 struck CM#1, he immediately went to Gas Station #1 seeking video, in addition to BWVs, capturing the encounter. Further, NE#1 asked Gas Station #1’s worker to upload the footage to preserve it. NE#1 also made a Blue Team entry covering his use of force. It was timely submitted and covered all necessary and relevant components. NE#1 described the threat he and his colleagues faced, de-escalation efforts, and CM#1’s noncompliance. NE#1’s entry was also consistent with OPA’s BWV observations and his OPA interview.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**